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Held at Headquarters, New York,
on Wednesday, 29 March 1995, at 10 a.m.

Chairman: Mr. AGUILAR

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The meeting was called to order at 10.25 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of the United States of America (CCPR/C/81/Add.4 and HRI/CORE/1/Add.49)

1. At the invitation of the Chairman, Ms. Deer, Mr. Harper, Ms. Harris, Mr. Patrick and Mr. Shattuck (United States of America) took places at the Committee table.

2. The CHAIRMAN welcomed the United States delegation. The United States of America had ratified the Covenant a quarter century after its entry into force. During that time, many of the ideals of the American founding fathers had been disseminated world wide through the Covenant. He trusted that the dialogue with the United States delegation would be extremely constructive.

3. Mr. SHATTUCK (United States of America) conveyed greetings from the Permanent Representative of the United States to the United Nations, Mrs. Albright, and from the United States Attorney General, Ms. Reno. The appearance of the United States delegation before the Committee was an historic occasion. The year 1988 had marked a turning-point with the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, followed by the ratification of the International Covenant on Civil and Political Rights in 1992. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination, had also been ratified and had entered into force for the United States in November 1994. The Convention on the Rights of the Child had been signed in February and the Convention on the Elimination of All Forms of Discrimination against Women was currently before the Senate.

4. In ratifying the Covenant, the United States had reaffirmed its commitment to the inalienable rights enshrined in its Constitution and democratic system, and had agreed to be judged by the same standards it used in assessing the human rights records of other countries. Central to American democracy was a system in which injustices could be addressed and rectified under the rule of law, and a truly independent judiciary empowered to override unconstitutional acts of the legislative and executive branches. Non-governmental organizations, too, played a vital role in the United States in promoting human rights.

5. The United States was still grappling with such problems as crime, drugs, poverty, discrimination, and violence against women. There was vigorous public debate on such sensitive issues as capital punishment, the right to choose abortion, the treatment of Native Americans and other "first peoples" and the functioning of the criminal justice system. His country was committed to open discussion of its problems and welcomed the opportunity to maintain a constructive dialogue with the Committee.

6. There was no single federal agency responsible for human rights. Rather, a number of federal departments and agencies, each with specific areas of jurisdiction, were responsible for the protection and promotion of civil and political rights. In addition, the state Governments had similar but independent responsibilities.

7. The protection of civil and political rights was guaranteed by the federal Constitution, the Bill of Rights and statutes, which could be directly invoked in the courts. The United States Congress also played an important role in protecting and promoting those rights. Federal law set the standard for the protection of civil and political rights, buttressed by the provisions of state and local constitutions and statutes. State and local provisions could provide greater protection than that required by federal law, but not less. The ratification of the Covenant marked the beginning of an ongoing process of extensive consultation and coordination with all federal, state and local authorities, with a view to its full implementation.

8. The United States Government had disseminated the provisions of the Covenant by publishing it in the Federal Register (the official government bulletin) and circulating copies to state attorneys general for distribution to state officials concerned with civil and political rights. Its initial report to the Committee had been published by the Government Printing Office and was available to the public in both hard copy and electronic form. Copies had also been distributed to non-governmental organizations (NGOs), depository libraries all over the country, offices and agencies of the federal Government, state attorneys general, state bar associations and academics in the field of human rights.

9. The Government was organizing public seminars and presentations on the Covenant and its initial report. Government officials had participated in panels on the implications of ratification, sponsored by the academic community, the legal profession and human rights organizations. The Government had interacted extensively with the American NGO community, the largest and most energetic in the world in the process of ratifying the Covenant, preparing the initial report and publicizing those documents. NGOs would also have a key role to play in the implementation of the Covenant.

10. Mr. HARPER (United States of America) said that his official responsibilities within the Department of State included monitoring United States obligations under the Covenant. He outlined the reservations, understandings and declarations on which the United States had conditioned its ratification of the Covenant. The United States delegation had prepared an analysis of the Committee's general comment on reservations and a statement on areas with which it disagreed.

11. The United States had not entered any general reservations to the Covenant. Its five reservations, five understandings and four declarations focused on limited and specific issues. Existing United States law was consonant with the Covenant, taking into account those reservations and understandings. In fact, the Covenant essentially embodied the individual rights and freedoms enjoyed by Americans under their Constitution and Bill of Rights, federal law and the constitutions and laws of the 50 states, territories and dependencies. Most of

the reservations, understandings and declarations concerned the manner in which the United States would give effect to the Covenant in its domestic laws; the fact that certain rights, such as freedom of speech, were given greater protection under the United States Constitution than under the Covenant; and certain differences in approach to the criminal justice system. The initial report discussed the extensive body of American law which already guaranteed the rights set forth in the Covenant. For that reason, no special or separate implementing legislation was proposed.

12. The provisions of the Covenant had been declared to be "non-self-executing", which meant that the Covenant did not create private rights enforceable in United States courts; that could be achieved only through federal legislation. However, United States domestic law established numerous mechanisms by which the Covenant rights it guaranteed could be protected and asserted. Although some had interpreted that approach as a refusal to adapt domestic laws to the Covenant, both the executive branch and the United States Senate were reluctant to use the unicameral treaty power under the Constitution to introduce direct changes in domestic law. That must be done by Congress - both the House of Representatives and the Senate - according to customary legislative procedure. A number of NGOs had been promoting draft legislation in Congress which would eliminate the need for some reservations and understandings.

13. The United States would carry out its obligations under the Covenant in a manner consistent with its federal form of government. That did not constitute a reservation but merely reflected the domestic measures which would be taken to implement the Covenant.

14. In some instances, the provisions of the Covenant impinged upon fundamental rights protected by the United States Constitution. That was particularly true of article 20 of the Covenant, whose provisions on the prohibition of propaganda for war and advocacy of national, racial and religious hatred directly conflicted with the United States constitutional guarantee of free speech. The United States had therefore entered a strong reservation to article 20. Article 19, which permitted certain restrictions to the fundamental right to freedom of opinion and expression, was also incompatible with the constitutional guarantee of free speech. His Government would not impose such restrictions and believed that other States should do so only where absolutely necessary. While the United States Constitution and laws guaranteed equal protection of the law and non-discrimination, they did permit certain distinctions to be made in line with legitimate government objectives. It had therefore stated its understanding that such distinctions were not precluded by the provisions of the Covenant.

15. The most significant reservation concerning the criminal justice system related to article 6, paragraph 5, of the Covenant. United States law authorized capital punishment for crimes committed by juvenile offenders who were 16 or 17 years of age, although the execution of juveniles below the age of 16 years was unconstitutional. His Government did not endorse the recent ruling by the European Court of Human Rights that capital punishment was "cruel, unusual or degrading treatment or punishment" and had entered a reservation to article 7 of the Covenant. In the United States, the issues of capital

punishment and of whether juveniles should be treated as adults in certain situations were still being debated. Current United States law reflected the will of the American people, upheld by the Supreme Court. He noted that capital punishment was not prohibited by the Covenant or by international law.

16. His delegation's understanding of the right to compensation for unlawful arrest or detention (article 9, paragraph 5, of the Covenant) was that States must provide effective mechanisms for seeking compensation, subject to reasonable requirements of domestic law. Other reservations and understandings concerning technical issues of the criminal justice system would be addressed in response to Committee members' questions.

17. In conclusion, he wished to stress that his country's ratification of the Covenant had been based on extensive consultation and coordination with non-governmental organizations, including human rights advocates, academics and practitioners, many of whom had testified before the Senate Foreign Relations Committee during open hearings. Many federal departments and agencies and non-governmental organizations had also been consulted during the drafting of the initial report. The Covenant and the report had been circulated to state attorneys general and to state bar associations. In addition, portions of the report were being used in human rights courses offered at universities and law schools; other parts would be incorporated into textbooks. The implementation of the Covenant and the compatibility of future legislation with it, as well as United States reservations, understandings and declarations, would be constantly reviewed.

18. Mr. PATRICK (United States of America) said that his country's history had not always lived up to its founding ideals of freedom and equality for all citizens. The Civil Rights Division, which he supervised, was the federal agency with primary responsibility for enforcing federal civil rights laws. Those laws prohibited discrimination on the basis of, inter alia, race, colour, sex, religion, national origin and disability. A pamphlet had been circulated to Committee members describing the work of each of the 11 litigating sections in the Civil Rights Division, which was under the authority of the United States Department of Justice. The Division sought to ensure protection in such areas as voting, education, employment, housing and the use of public accommodations.

19. Referring to articles 2 and 26 of the Covenant, he said that, under United States laws, all individuals were guaranteed equal protection of the law without regard to race, colour, sex, language, religion, national origin, property, birth or other status. That right was protected primarily by the Fourteenth and Fifth Amendments of the United States Constitution, which guaranteed equal protection of the law and prohibited the deprivation of life, liberty or property without due process, respectively. Specific rights were guaranteed by other provisions of the Constitution and a number of civil rights statutes.

20. Referring to article 8 of the Covenant, he said that the Thirteenth Amendment to the Constitution prohibited slavery and involuntary servitude. The Civil Rights Division was authorized to prosecute cases of involuntary servitude under three implementing statutes which prohibited holding or returning a person in a condition of peonage, carrying a person away to or enticing a person to involuntary servitude, and holding a person to a condition of involuntary

servitude, respectively. In modern times, migrant workers, children and other vulnerable groups were subjected to involuntary servitude in the United States. Since 1977, the Civil Rights Division had prosecuted approximately 28 cases of involuntary servitude involving 100 defendants. The cases had resulted in 36 convictions and 46 guilty pleas.

21. The right to vote, enshrined in articles 25 and 27 of the Covenant, was at the core of American democracy. The Fifteenth Amendment to the Constitution prohibited the denial of voting rights on account of race, colour or previous condition of servitude and the Voting Rights Act of 1965 and its amendments authorized the Civil Rights Division and private parties to file lawsuits in cases of violation. The Act also banned literacy tests and other devices used to disqualify minority voters. The Civil Rights Division accorded top priority to ensuring that all Americans enjoyed the right to vote.

22. Referring to the rights of minorities to culture, religion and language (article 27 of the Covenant), he said that under the Voting Rights Act, minority language materials and assistance must be provided to persons who did not read or speak English well. Jurisdictions with large minority-language populations had been targeted, in particular, in order to ensure that they participated in the electoral process. The Division had successfully sued Dade County, Florida, for distributing voter information in English only in a largely Hispanic community.

23. The Civil Rights Division was committed to eliminating the vestiges of segregation in elementary and secondary education and in state institutions of higher learning. It was responsible for enforcing Title VII of the Civil Rights Act of 1964, which prohibited public and private employers from discriminating on the basis of race, colour, religion, sex or national origin in employment practices. During the Administration of President Clinton, a record number of lawsuits had been filed against individual discrimination and patterns and practices of employment discrimination. Relief had been provided to over 2,000 victims of discrimination.

24. On the topic of housing discrimination, there was indeed a link between housing patterns and the educational and employment opportunities available to communities. The Administration had made eradication of housing and leasing discrimination one of its highest priorities. The Fair Housing Act prohibited all forms of discrimination in activities relating to the sale, rental, financing and advertising of housing. The Division's Fair Housing Testing Program was a powerful investigative tool for determining whether a housing provider or lending institution was discriminating, and had resulted in a number of lawsuits, extensive injunctive relief and settlements which had created a pool of over $1 million to compensate proven victims of discrimination.

25. With regard to article 23 of the Covenant and the protection of the family, the Civil Rights Division had brought numerous suits alleging discrimination on the basis of familial status on behalf of individuals who had been unable to obtain housing because there were children under 18 in their family.

26. On the issue of confinement and incarceration, he pointed out that the Eighth Amendment of the United States Constitution prohibited cruel and unusual

punishment, which was also prohibited by articles 7 and 10 of the Covenant, and that prohibition was applied to the states through the Fourteenth Amendment.

27. The United States Supreme Court had ruled that prisoners enjoyed certain basic rights regarding prison conditions and treatment during incarceration. The Civil Rights Division was responsible for enforcing the Civil Rights of Institutionalized Persons Act of 1980, which authorized the Attorney General to seek relief for persons confined in public institutions where conditions existed that deprived residents of their constitutional rights. The Division was empowered to initiate civil actions under that statute when there was reason to believe that a person acting on behalf of a state or locality had subjected institutionalized persons to harmful conditions. The provision also applied to mental and nursing care patients.

28. Ms. HARRIS (United States of America) said that the Criminal Division of the Department of Justice, for which she worked, was responsible for the application of all federal criminal laws throughout the country. The Division's principal objective was to safeguard the public's rights by protecting individuals from criminal activity. Aggressive steps had been taken to confront and deal with violent crime, including the high-profile Reno-Gore Anti-Violent Crime Initiative. The Clinton Administration had focused on controlling access to firearms, for example by enacting the Brady Handgun Violence Prevention Act and banning assault weapons under the Violent Crime Control and Law Enforcement Act of 1994. She explained that capital punishment was still applied in the case of particularly violent crimes, but the United States Constitution and federal statutes guaranteed procedural safeguards in capital cases which met or exceeded those provided under international standards. Furthermore, the imposition of the death penalty or any other penalty on the basis of discriminatory grounds was forbidden.

29. The Administration had also enacted the Violence Against Women Act which was the most comprehensive federal effort in its field. It was particularly noteworthy for its coverage of domestic violence and sexual assault, and federal courts were empowered to order broad restitution measures for the victims against persons convicted of such offences.

30. Ms. DEER (United States of America) outlined the history of relations between the United States Government and the Native American tribes. In the 1950s and 1960s the political status of many tribes was terminated and a number of Native American peoples were effectively deprived of their land, tribal identity and culture. The policies of those years represented an abandonment of the special legal obligations and protections to which tribes had been entitled as a matter of federal law. In the 1970s termination policies began to be reversed and a period of tribal self-determination was initiated. Since then, other terminated tribes had regained recognition of their sovereign status and the discredited policy had been repudiated by the Senate and every subsequent President. Furthermore, relations between the tribes and the United States were currently being conducted on a government-to-government basis.

31. The Tribal Self-Governance Act was enacted in November 1994. It inaugurated a policy which was supportive of tribal sovereignty while maintaining the special government-to-government relationship and the

protections inherent in the Federal Indian Trust Responsibility. The Clinton Administration had also emphasized its strong commitment to supporting Native American culture, religions, identities and sovereignty. In addition, it had taken specific measures to resolve long-standing disputes over Indian land rights.

32. The Department of the Interior currently contained two offices with special responsibilities for advancing federal Indian policy. The Office of Self-Governance had been established to implement the Self-Governance Demonstration Project enabling tribes to take control of departmental functions, programmes and activities. The purpose of the Office of the American Indian Trust was to ensure that the Federal Indian Trust Responsibility was recognized and fulfilled, because the responsibility was a perpetual legal obligation of the United States.

33. Despite the considerable progress that had been made in advancing the status of Native Americans, she acknowledged that much remained to be done to ensure that America's tribal peoples enjoyed the same quality of life and equality of opportunity as other Americans.

34. Mrs. EVATT asked the delegation to provide further information about the practical impact of the Covenant provisions and the way in which the Covenant was reflected in the domestic legislation of the reporting State. She noted with concern the declaration made by the United States when it ratified the Covenant to the effect that articles 1 to 27 of the Covenant were non-self-executing. In other words, since the United States believed that the basic rights enshrined in the Covenant had long been part of its domestic law, it saw no need to put in place implementing legislation. In that connection she asked whether it was permissible under the Constitution to remove from the Supreme Court's jurisdiction the issue of whether a particular treaty provision was or was not self-executing. If the issue could be thus removed, she asked the reporting State to explain whether the Court's judicial function had therefore been pre-empted. Furthermore, if the United States held that the rights recognized under the Covenant were already guaranteed in domestic law, it would be interesting to know why the courts had been deprived of the opportunity to refer to the Covenant. Specifically, it was unclear how Covenant rights would actually be protected in cases where domestic law was not up to the standards set by that instrument. As a result of the reporting State's position, the Covenant had been disabled from delivering more to United States citizens than the provisions of their domestic law.

35. She noted the apparent contradiction between the delegation's assurance that the United States authorities were intent on ensuring gradual compliance with the Covenant and its statement that no legislative changes were contemplated since the Covenant's provisions were already covered by domestic law. While she appreciated that in many cases progress would be made though the Constitution and Bill of Rights, she felt that the Covenant dealt more fully with issues such as non-discrimination on the grounds of language, the right of minority peoples to use their language, the right to privacy, the equal rights of spouses in marriage, protection of members of indigenous communities, and the protection of the right of every citizen to vote. Additional information would be welcome on any action that had been taken to identify such issues, deal with

them, and provide access to appropriate remedies. In particular, she wished to know whether the United States Government would encourage courts dealing with rights issues to refer to the Covenant in their decisions. She would also welcome information on the extent to which the Government would require executive officials to take account of the Covenant in their activities.

36. The issue of states' sensitivities vis-à-vis the federal authorities was another question that merited close attention. Specifically, paragraph 4 of the initial report mentioned that the federal Government would remove any federal inhibition to the abilities of the constituent states to meet their obligations under the Covenant. She asked the reporting State to clarify what it meant by "federal inhibitions" and to indicate what action the federal authorities had taken to encourage the implementation of the Covenant at the state level. She suggested that any process of regular consultation with states regarding the Covenant would be more effective if the Government was prepared to back up its measures with legislation. Furthermore, a federal agency should be established to review laws on an ongoing basis in order to assess their compatibility with the Covenant. She would also welcome information on what body citizens could approach with their concerns, and requested that states should be consulted more fully in the preparation of future reports.

37. Mr. PRADO VALLEJO said that the United States of America had been a pioneer in the promotion and respect of human rights. Thus, the long delay in ratifying the Covenant was surprising. From his reading of the well-prepared report, it was clear that United States citizens enjoyed broad protections for their rights, although the factors and difficulties in implementing the Covenant could have been discussed in greater detail. Unfortunately, few countries had made more declarations, reservations and interpretations upon ratification, although in introducing the report the United States delegation had dispelled some of his fears. Some areas of concern remained, however.

38. The United States Government did not seem to have a high degree of commitment to changing domestic legislation if it conflicted with the provisions of the Covenant, although its article 2, paragraph 2, spelled out that obligation clearly. Moreover, some of the reservations could indeed affect the object and purpose of the Covenant. For example, the ability to impose the death penalty on minors would affect the application of article 24, paragraph 1, concerning the right of minors to appropriate measures of protection. The greatest cause for concern was the declaration that articles 1 to 27 of the Covenant were not self-executing and could only be applied if domestic laws already existed.

39. He asked for more information about the right of self-determination as stipulated in article 1 of the Covenant, and how it could be implemented under United States law. The blockade against Cuba would seem to contravene that article. He also inquired how the human rights of the Cubans and Haitians currently being detained at Guantanamo, including members of the Mariel boatlift who were still being held, long after the completion of their terms of detention, would be respected. United States legislation included many laws against discrimination, but discrimination still existed, for example the law recently passed in California regarding illegal immigrants. More information on such situations would be welcome.

40. Mr. ANDO paid tribute to the great contribution the United States of America had made to the cause of human rights throughout its history and to its involvement in the establishment of the United Nations and the drafting of its Charter and the Universal Declaration of Human Rights. The delegation had presented a solid initial report and its oral presentation had clarified a number of issues. He noted that the style of presentation of the report tended to refer to the framework of the United States Constitution and laws, rather than the Covenant, however.

41. From his reading of the report, a number of specific questions on individual articles had arisen. With regard to freedom of movement under article 12, he wondered if there was a policy of judicial review of decisions to deny or revoke a passport (paras. 307 and 308), or only administrative review. Article 13 dealt with the expulsion of aliens, and it was unclear whether the immigration judge mentioned in paragraphs 316 and 325 was a member of the judiciary or the executive. Since there was no formal procedure for review of decisions on refugee status, as stated in paragraph 339, he inquired whether the United States intended to become party to the United Nations Convention relating to the Status of Refugees or to work with the Office of the United Nations High Commissioner for Refugees in making determinations of special status. With regard to the right to privacy under article 17, who could be considered a "neutral and detached" official and the status of such an official under domestic law should be clarified.

42. With regard to article 18, the variation among states in the granting of tax-exempt status to religious organizations raised the question of equality before the law. Article 50 of the Covenant provided for the extension of its provisions to all parts of federal States, including local governments. In its fifth understanding, the United States had discussed the allocation of power between the federal Government and the states. It would be helpful to hear more about any procedures that existed to equalize differences between states in the application of such provisions. He would also like to hear the rationale for the more lenient standards applied to governmental assistance to religious institutions of higher education, including information on specific cases. In response to the trends towards an increase in violent crime, loose moral attitudes and the general breakdown of the family structure, many sectors of American society had begun to demand the strengthening of religious education, and he would like additional information on the federal Government's policy in that regard.

43. Turning to article 19 on freedom of opinion and expression, some legacy still remained from the period at the beginning of the Cold War when attempts had been made to limit that freedom, and he wondered how the Government planned to address that legacy. He requested further information on the regulation of the right to strike under articles 21 and 22 and whether any complaints had been made to the International Labour Organization.

44. To conclude, he noted that, at the national level, efforts were being made to control the sale of handguns, and at the international level, the United States was eager to extend the Nuclear Non-Proliferation Treaty indefinitely, both of which related to the right to life under article 6. It seemed to him that those laudable efforts to promote the right to life at all levels were in

conflict with the constitutional right to keep and bear arms, and the United States must begin to face that question squarely.

45. Mr. EL-SHAFEI said that the Committee was fully aware of the significance of the submission of the initial report of the United States of America. The Covenant, which had entered into force in 1977 and had been ratified by 129 countries, was part of an entire system of human rights protection. Human rights were gradually becoming less a concern of individual States and more a global concern, and it was in the best interest of all to strengthen the system of human rights protection. Regrettably, human rights violations were still being committed on a massive scale, and the need for the enforcement of international humanitarian and human rights law was greater than ever. Many countries in the world had undergone drastic changes in the past few years and were making a transition to a new form of government. It was essential for the global system to enhance its ability to assist such countries in transition. The United States had been among the leaders in encouraging countries in transition and crisis to put an end to internal armed conflicts. The expectations raised by the ratification by the United States Government of international conventions was high. The United States' prior hesitation had sometimes been used as an excuse by other countries not to implement the Covenant, since the latter felt that the United States Government was maintaining a double standard. All of those considerations determined the context of the Committee's current dialogue with the United States delegation, and he reiterated that its only concern was seeing the Covenant properly implemented. People all over the world looked to the United States as a yardstick for justice and were grateful that it had taken the initiative to ensure justice and restore hope in many critical situations.

46. With reference to the United States declaration that the provisions of articles 1 to 27 of the Covenant were not self-executing, he recalled that the purpose of treaties was for States to undertake new obligations, and in the case of the International Covenant on Civil and Political Rights, to conform domestic law to international standards enshrined in the Covenant. It was regrettable that by its decision, the Government had prevented the Covenant from being tested in the United States courts. The United States delegation should explain to the Committee the criteria for deciding whether any given treaty would be self-executing, and what criteria would be applied for conforming domestic laws to the provisions of the Covenant.

47. Another obstacle to the effective implementation of the Covenant was the "federalism understanding". It was widely believed in the United States that that understanding was neither necessary as a matter of domestic law, nor desirable. The United States Supreme Court had made it clear that the federal Government could conclude and enforce treaties in respect of matters which would otherwise fall within the jurisdiction of the constituent states.

48. He feared that the Covenant, despite its ratification, might become a "dead letter" in the United States; he would welcome an assurance from the United States delegation that that would not be the case, and that the Covenant would be implemented faithfully.

49. Mrs. MEDINA QUIROGA welcomed the ratification of the Covenant by the United States. It was an important contribution to the international goal of promoting and protecting human rights. The obligation, contained in article 2, to ensure to all individuals the rights enshrined in the Covenant was particularly important in the light of the obligation under article 40 to submit reports to the Committee.

50. Referring to the provisions of the Covenant regarding discrimination on the basis of sex, she asked the delegation of the United States to provide additional information regarding the statement in paragraph 89 that certain pieces of legislation did not cover such discrimination; she wondered whether plans existed to rectify that situation. The reporting State should specify what steps it intended to take in order to ensure equality of rights for women.

51. Referring to the right of privacy as provided for in article 17, she expressed concern regarding the supervision of women prisoners; and in reference to the rights protected under article 7, she asked what the Government planned to do in response to the allegations of mistreatment described in paragraph 280 of the report.

52. Referring to a recent press report in which it had been alleged that experiments had been carried out on children and psychiatric patients in New York State, she asked what steps would be taken to end such practices. She also wondered what progress had been made in the debate in Congress on the issue of race and the death penalty, as discussed in paragraph 86 (c) of the report. Recalling that the United States had reserved the right to impose the death penalty on persons under 18 years of age in certain cases, she suggested that the reservation might, in fact, be unacceptable because of the consensus in international law against capital punishment of juveniles. The reporting State should provide additional information regarding the trial, treatment and punishment of juvenile offenders, especially in certain states of the United States where they were treated as adults in cases of homicide.

53. Mr. KLEIN welcomed the ratification of the Covenant by the United States, and looked forward to a fruitful dialogue. The United States had played a prominent role in the defence of human rights. He thanked the United States delegation for the frankness and clarity of its report, which contained a great deal of valuable information.

54. Referring to the United States declaration that articles 1 to 27 of the Covenant were not self-executing, he wondered whether the courts were prevented from applying the Covenant, or from taking guidance from it in interpreting domestic law. The delegation should also explain how the United States Government would ensure the implementation throughout the country of the rights embodied in the Covenant. Referring to paragraph 475 of the report, and article 14, paragraph 7, of the Covenant, he wondered whether federal or state courts were prohibited from applying the terms of the Covenant in cases of double jeopardy.

55. Recalling that the United States Supreme Court had taken a narrow view on the binding effect of public international law on United States officials serving outside the United States, he asked whether the Government took a

similar view with regard to the applicability of the Covenant. Regarding the ready availability of firearms in the United States, he inquired whether there were any legal mechanisms to ensure that the State was fulfilling its duty to protect the right to life as enshrined in the Covenant.

56. With regard to the freedom of expression and its protection under the First Amendment to the United States Constitution, and recalling that obscenity was excluded from that protection, as explained in paragraph 590 of the report, he wondered whether a similar standard could not be applied in respect of racial hatred.

57. The United States delegation should also make it clear whether it recognized that the right of self-determination, under article 1 of the Covenant, was applicable in the case of Native American tribes. He wondered whether the special concept of sovereignty mentioned in paragraph 43 of the report provided protection against legislative or other measures that might encroach upon their rights; whether land or resources belonging to Native American communities could be taken from them by the Government, with or without compensation; and by which means they could obtain constitutional protection against such acts.

The meeting rose at 1.05 p.m.